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In re Application of
KITAMURA, et al. :
U.S. Application No.: 10/531,917 : DECISION ON RENEWED
PCT No.: PCT/JP03/13445 :
Int. Filing Date: 21 October 2003 : PETITION UNDER
Priority Date 21 October 2002 :
Attorney Docket No.: 59216.1520 : 37 CFR 1.182
For: APPARATUS FOR CONTROLLING :
AUTOMATIC TRANSMISSION :
:

This is a decision on applicant's "Petition For Reconciliation to Correct Application Classification Under 37 C.F.R. 1.182" filed on 01 August 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 May 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.182. Applicant was afforded two months to file any request for reconsideration.

On 01 August 2005, applicant filed the present renewed petition.

DISCUSSION

Applicant is requesting that the present U.S. National stage application be reclassified as a U.S. national application under 35 U.S.C. 111(a). Applicant cites a decision granting applicant's petition in a similar situation in application 10/529,703.

As detailed in the decision in application 10/529,703, "If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111." In that case, although applicant used the Form PTO-1390 transmittal letter for entering the U.S. National stage under 35 U.S.C. 371, applicant had amended the specification to indicate that the application was a continuation application. Therefore, it was proper to treat the application as filed under 35 U.S.C. 111. As explained in the decision mailed 31 May 2005 in this application, the filed English translation of the international application did not indicate that the filing was a continuation of co-pending international application. In addition, none of the other papers filed 19 April 2005 contained any indication that the application was intended as a 35

U.S.C. 111(a) application. As such, the filed papers did not contain any conflicting instructions and the application was properly processed under 35 U.S.C. 371.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.182 is DISMISSED.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being returned to the United States/Elected Office for continued processing in accordance with this decision.



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